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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/998,507	12/26/97	BAUER	A 1704345

EXAMINER

QM02/0613

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ART UNIT	PAPER NUMBER
1746	11

DATE MAILED: 06/13/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on March 7, 2000 (cert of mail March 2, 2000).

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 5, 6, 8, 33-43 is/are pending in the application.

Of the above, claim(s) 5, 6, 8, 37, 39, 41 and 42 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 33-36 and 38 is/are rejected.

☒ Claim(s) 40 and 43 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

– SEE OFFICE ACTION ON THE FOLLOWING PAGES –

★ U.S. GPO: 1996-409-290/40029

Applicant's response to Paper No. 9 has bee received. The elected claims examined here are 33-36, 38 40 and 43. Claims 5, 6, 8 and 37, 39, 41 and 42 are non-elected at this time. Applicant is correct to state that upon allowance of a generic claim, if one is allowed, all properly dependent species claims will also be allowed.

Applicants' response received November 22, 1999 (Paper No. 8) has been carefully considered. Curiously, that response has no discussion of Nelson (USP 5,820,456) which was applied to the original claims as either 35 U.S.C. 102(b) or 103. It appears to be as applicable to claim 33 as it was the original claim 1. Similarly no discussion of GB 344914 has been presented.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 33, 34, 35 and 36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nelson.

Nelson appears to show all of the positively claimed features. If applicants are claiming both heating and cooling means (which doesn't appear to be the case) one of ordinary skill would have found it obvious to have added a cooling means to the supply system to cool the air during the summer. Nelson shows a heating means at 17.

Regarding claim 34, Nelson discloses that increases in ~~the~~ the temperature within the booth over that outside (i.e. outside temperature) also affects the air pressure differential (see col. 3, lines 35-50). It is submitted that, in Nelson, the value of the excess pressure in the room is determined at least partly by outside temperature as described in col. 3, lines 35-50.

Claim 33 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB 344,914. See page 1, line 105 - page 2, line 3 and page 2, lines 28-41.

Claims 34-36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 344,914 in view of Crider.

GB '914 is explained above in pertinent part. To have changed the differential pressure between the indoor and outdoor pressures in the manner taught by Crider to adequately vent the building of GB '914 during both hot and cold weather would have been obvious.

Claims 40 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to John Ford at telephone number (703) 308-2636.

John K. Ford
Primary Examiner

J. FORD:LM
MAY 26, 2000